

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

STEVA M. HAIRSTON,)	
Petitioner,)	Civil Case No. 7:14cv00207
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
BRUNSWICK RECEPTION)	
PRE-RELEASE CENTER,)	By: Michael F. Urbanski
Respondent.)	United States District Judge

Steva M. Hairston, a Virginia inmate proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging her 2011 conviction in the Pittsylvania Circuit Court for a third offense of larceny. In her federal habeas petition, Hairston alleges that upon being sentenced on November 30, 2011, she was “granted a furlough for surgery [and] health issues.” Hairston states that her attorney filed a motion for reconsideration on February 12, 2012, but she does not indicate to what the motion was requesting reconsideration. Hairston alleges that in June 2012, she was notified that her attorney had become a judge. She states that she moved for substitution of counsel, which apparently never happened. Hairston alleges she had a court date in August 2012, but that she “never heard.” It is unclear what she did not hear. Hairston argues that she has a “right to attorney,” but that no substitution was made after her attorney became a judge.

Upon initial review of Hairston’s pleading, the court conditionally filed the petition and advised Hairston that it could not discern a cognizable federal habeas claim from the allegations in her petition. The court directed Hairston to submit a more definite statement of her claims within ten days. Hairston did not respond to this portion of the court’s conditional filing order.

Pursuant to Rule 4 of the Rules Governing Section 2254 Cases, the court must dismiss a petition “if it plainly appears from the petition and any attached exhibits that the petitioner is not

entitled to relief” Because Hairston alleges no cognizable federal habeas claim, the court finds that it plainly appears that she is not entitled to habeas relief.¹ Accordingly, the court dismisses this action without prejudice to Hairston’s opportunity to refile her petition.

Entered: June 23, 2014

/s/ Michael F. Urbanski

Michael F. Urbanski
United States District Judge

¹ Moreover, it appears from state court records found online that Hairston’s direct appeal is currently pending in the Court of Appeals of Virginia. Hairston v. Commonwealth of Virginia, Case No. 0674-14-3 (Va. Ct. App. Apr. 11, 2014) (brief in opposition received June 12, 2014).